

Title 26

DEPARTMENT OF THE ENVIRONMENT

Subtitle 04 REGULATION OF WATER SUPPLY, SEWAGE DISPOSAL, AND SOLID WASTE

26.04.02 Sewage Disposal and Certain Water Systems for Homes and Other Establishments in the Counties of Maryland Where a Public Sewage System Is Not Available

Authority: Environment Article, §§9-216, 9-217, 9-223, 9-252, 9-319, 9-510, 9-1108, 10-103, 10-301, and 10-304, Annotated Code of Maryland

.07 Best Available Technology for Removal of Nitrogen (BAT).

A. A person may not install, or have installed, an onsite sewage disposal system unless the onsite sewage disposal system utilizes BAT for any of the following:

(1) New construction in [either] the Chesapeake Bay [Watershed or] *and* the Atlantic Coastal Bays [watershed] *Critical Areas*;

[(2) New construction in any watershed of a nitrogen impaired body of water; or]

[(3)] (2) A replacement system to serve a property in [either] the Chesapeake Bay [critical area or] *and* the Atlantic Coastal Bays [critical area] *Critical Areas*.

B. *A person may not install, or have installed, for new construction or a replacement system an onsite sewage disposal system where the design flow is 5000 gallons per day or greater unless the sewage disposal system utilizes BAT or equivalent technology.*

[B.] C. New construction *does not* [includes] *include* the renovation, repair, *or change of use* of [a] *an existing* residence or other building [and the Approving Authority determines that the existing on-site sewage disposal system is not adequate to serve the proposed alteration or altered building] *unless*:

(1) *The residence or building is located in a Critical Area; and*

(2) *The Approving Authority finds that residence or building's existing onsite sewage disposal system is not adequate to serve the proposed changes, in accordance with this chapter.*

D. [[A]] *This regulation does not preempt a local [[jurisdiction may enact code]] jurisdiction's authority to require a BAT system outside the Critical Area in order to protect public health or the waters of the State.*

[C.] E. The property owner shall maintain and operate all new and existing BAT systems for the life of the system through one of the following management measures:

(1) The BAT system is operated *and maintained* by a responsible management entity [, acceptable to MDE] *approved by the Department, and established by the Approving Authority or local government, to assume operation and maintenance of BAT systems*;

(2) The BAT system is covered by a renewable operating permit, which is issued by or required by the Approving Authority and which includes enforcement provisions, inspections, and monitoring; or

(3) The [BAT is covered by a service contract that the property owner maintains with a certified service provider. If a] BAT system is operated and maintained by a certified service provider. The owner shall ensure the BAT system is inspected and has necessary operation and maintenance performed at a minimum of once per year.

F. *All BAT systems sold in the State shall include both a two-year operation and maintenance contract and a two-year warranty, which shall be in effect at the point of initial installation.*

[D.] G. Certified Service Providers.

(1) The Department shall maintain a list of certified service providers.

(2) An individual may become certified if he completes and passes a course of study on operation and maintenance of BAT systems approved by the Department. The course of study shall include instruction on how BAT systems function as well as elements on operation, maintenance, and repair of BAT systems.

(3) The [Maryland] Department [of the Environment] may revoke a certification of service provider for BAT systems for violation of these regulations.

(4) A certified service provider shall report on inspection, operation and maintenance activities to the Department, or the Department's designee, in a manner acceptable to the Department on a yearly basis prior to the yearly anniversary of the date of installation.

(5) The certified service provider shall have a certificate of qualification from the manufacturer, *vendor or the local representative* of the BAT system being serviced.

(6) A property owner may obtain certification as a service provider to maintain his system personally, subject to all the requirements of this regulation pertaining to operating and maintaining BAT systems.

[E.] H. A person who has completed a course of study approved by the Department for the installation of BAT, and has a certification of qualification for installing BAT systems from the manufacturer, is required to be present on the property while a BAT unit is installed.

[F.] *I.* Within 1 month of the completion of an installation, a person installing a BAT system shall report to the Department, or the Department's designee, in a manner acceptable to the Department, the address and date of completion of the BAT installation and the type of BAT installed.

[G.] *J.* The owner of an onsite sewage disposal system with a design flow less than 1500 gpd, requiring a BAT system under §A or [B] *D* of this regulation, may only install:

(1) A BAT system that has been approved by the [Maryland] Department [of the Environment]; or

(2) An individually engineered nonproprietary BAT system if a governmental agency or their designee is the responsible management entity or issues renewable operating permits.

[H.] *K.* The owner of an onsite sewage disposal system with a design flow greater than 1,500 gpd, requiring a BAT system under §A, [or] B or *D* of this regulation may only install a BAT system that is individually engineered for the site and approved by the Department or the Department's designee.

[I.] *L.* A permittee shall construct a BAT unit in a manner and of materials acceptable to the Department and the Approving Authority.

[J.] *M.* If the applicant demonstrates that extremely low, variable or sporadic wastewater flow results in malfunctioning of the BAT system, the Department may grant a variance to the BAT requirement upon a request from the Approving Authority.

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